



# Corrections and Community Supervision

## Annual Report on Sexual Victimization

2013-2016

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## **INTRODUCTION**

### **Establishment of the Prison Rape Elimination Act**

The Prison Rape Elimination Act of 2003 (PREA Public Law 108-79) established federal mandates to identify and prevent prison rape in correctional facilities within the jurisdictions of federal, state, local, and native territories across the United States. Public Law 108-79 was signed into law on September 4, 2003.

The United States Department of Justice adopted the National Standards to Prevent, Detect, and Respond to Prison Rape (the PREA Standards) effective August 20, 2012. In addition to establishing mandatory standards for prevention, detection and response to prison sexual abuse and sexual harassment, the PREA Standards require all correctional facilities to conduct sexual abuse incident reviews and collect uniform data using standardized definitions. Agencies must ensure that data collection includes allegations of sexual abuse and sexual harassment at facilities under its direct control. This incident-based sexual abuse information must be aggregated and made readily available to the public at least annually.

The New York State Department of Corrections and Community Supervision (DOCCS) publishes this report in compliance with PREA Standards §115.87 Data Collection and § 115.88 Data Review for Corrective Action (see Appendix B).

This report provides a comparison of allegations of sexual abuse and sexual harassment as reported to the Bureau of Justice Statistics (BJS) for calendar years 2013 - 2016 as well as corrective actions taken at facilities and the agency as a whole. This annual report includes allegations of sexual abuse of inmates and incarcerated parolees within correctional facilities under the jurisdiction of DOCCS. Allegations of sexual abuse and sexual harassment are preliminary and subject to change as these cases develop. The allegation categories are not final for cases that are ongoing or pending resolution. Data used in this report reflects the most current information available at the time of publication.

Allegations of sexual abuse and sexual harassment are based on the most recent definitions provided by BJS and reporting requirements as specified in the National Standards to Prevent, Detect, and Respond to Prison Rape, under 28 CFR part 115 (see Appendix C). Reports include comparisons of previous years' data where appropriate.

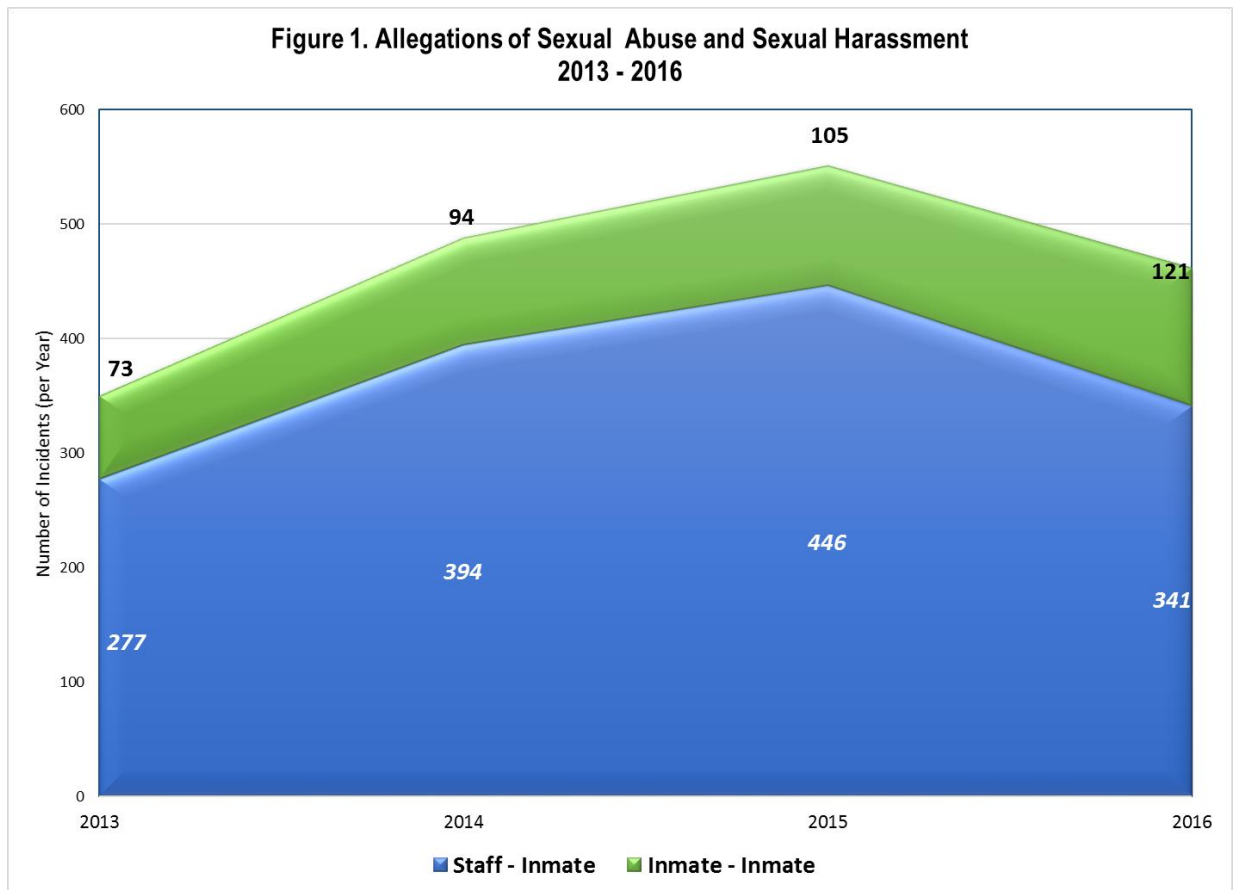
## Section One

### ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT

The following section contains data on sexual abuse and sexual harassment allegations reported over a four-year period. These allegations represent complaints which became investigative cases from January 2013 through December 2016. This section is intended to provide an informed overview of these allegations statewide. In accordance with the National PREA Standards, DOCCS reviews the data collected and aggregated pursuant to §115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training in an effort to understand and eliminate sexual abuse and sexual harassment within New York State Correctional Facilities.

#### Type of Allegation

Uniform definitions provided by the Bureau of Justice Statistics (BJS) and the Prison Rape Elimination Act of 2003 are used in order to categorize allegations of sexual abuse and sexual harassment within DOCCS correctional facilities. These categories separate allegations by perpetrator type (staff or inmate) as shown in Figure 1.



## Overview

The total number of sexual abuse and sexual harassment allegations decreased by 16% from 2015 to 2016 (551 and 462 respectively) in contrast to the previous two-year cycle. From 2014 to 2015 the total number of allegations increased by 13% (488 and 551, respectively) (see Table 1). Increased reporting was expected in light of the implementation of a number of new PREA-based initiatives in 2015. In 2015, DOCCS implemented the new comprehensive inmate education program based upon the short gender-specific films *Ending Sexual Abuse Behind the Walls: An Orientation*. In addition, DOCCS began to use a new staff training curriculum (*Sexual Abuse Prevention and Response*) and expanded the number of Assistant Deputy Superintendent PREA Compliance Managers.

The current 16% decrease in reports of sexual abuse and sexual harassment is likely attributable to increasingly effective prevention, detection and response protocols. This suggests a positive impact resulting from the Department's concerted efforts to better educate staff and incarcerated individuals about the zero-tolerance policy for sexual abuse and sexual harassment; the addition of Assistant Deputy Superintendent PREA Compliance Managers who work collaboratively with designated PREA Point Persons; the expansion of ready access to outside confidential support and victim advocacy organizations; and ever improving prompt, thorough, objective and reliable investigations. Investigations have yielded multiple successful criminal and disciplinary outcomes which serve as an additional deterrent. Specifically, staff related allegations decreased by 23% from 2015 to 2016.

### *Staff Sexual Misconduct*

Staff Sexual Misconduct includes a wide-range of behaviors such as attempted or requested sexual acts, indecent exposure, invasion of privacy and staff voyeurism, as well as completed sexual acts and unwanted touching for sexual gratification. This category represents about half of all allegations reported annually. There were 242 staff sexual misconduct allegations reported in 2016, down 16 from 258 in 2015 (see Table 1).

### *Staff Sexual Harassment*

Staff sexual harassment includes repeated verbal statements, and comments or gestures of a sexual nature to an inmate by a staff member. Staff sexual harassment allegations typically represent approximately one-third of all allegations; in 2016, they comprised only about one-fifth of the allegations. Staff sexual harassment allegations decreased by 47% between 2015 and 2016 (188 and 99, respectively) (see Table 1).

### *Inmate Nonconsensual Acts*

Nonconsensual acts include inmate-on-inmate sexual penetration without consent or of an inmate who is unable to consent or refuse. The number of cases in this category increased by 34% from 2015 to 2016 (53 and 71, respectively) and represented 59% of all inmate-on-inmate allegations reported in 2016.

### *Inmate Abusive Acts*

Inmate abusive acts are defined as unwanted intentional touching of an inmate without his or her consent, or of an inmate who is unable to consent or refuse, by another inmate. Inmate abusive acts represented approximately 5% of total allegations reported to DOCCS in 2016. The number of allegations of inmate abusive sexual contact increased 56% from 2015 to 2016 (16 and 25, respectively).

### *Inmate Sexual Harassment*

In 2013, the Bureau of Justice Statistics added *Inmate Sexual Harassment* to the definitions of sexual victimization. Inmate sexual harassment is defined as repeated and unwanted sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another. The number of allegations decreased 31% from 2015 to 2016 (36 and 25, respectively).

**TABLE 1**

**Allegations of sexual victimization, by type of incident, 2013 - 2016**

Category Type	2013	2014	2015	2016	2013	2014	2015	2016
Total	350	488	551	462	100.0%	100.0%	100.0%	100.0%
Staff sexual misconduct	176	228	258	242	50.3%	46.7%	46.8%	52.4%
Staff sexual harassment	101	166	188	99	28.9%	34.0%	34.1%	21.4%
Inmate-on-inmate nonconsensual act	52	48	53	71	14.9%	9.8%	9.6%	15.4%
Inmate-on-inmate abusive sexual contacts	10	17	16	25	2.9%	3.5%	2.9%	5.4%
Inmate-on-inmate sexual harassment	11	29	36	25	3.1%	5.9%	6.5%	5.4%

## Rate of Reported Allegations

The rate of reported allegations of sexual victimization decreased from 10.4 per 1,000 inmates in 2015 to 8.9 per 1,000 inmates in 2016. The rate of allegations concerning staff decreased from 8.4 per 1,000 inmates in 2015 to 6.6 per 1,000 inmates in 2016. The rates of inmate-on-inmate allegations have seen slight increases annually since 2013. It is generally expected that inmate-on-inmate victimization has been historically under-reported and this trend can be seen as a result of strategic measures implemented to promote an inmate's willingness to report.

**TABLE 2**

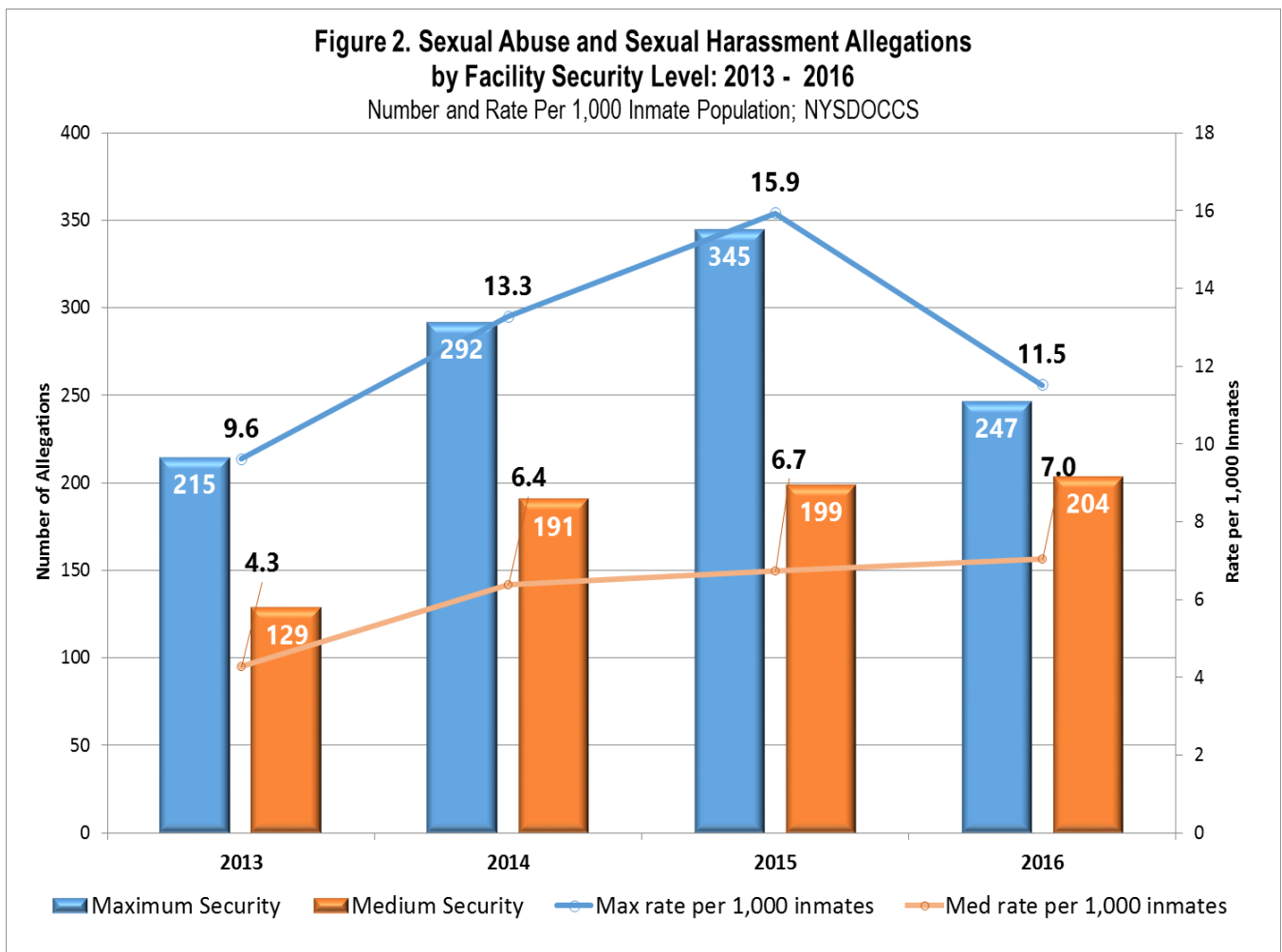
**Total allegations of sexual victimization, by type of incident, 2013 - 2016; rate per 1,000 inmate population**

Category Type	2013	2014	2015	2016	2013	2014	2015	2016
Total	350	488	551	462	6.4	9.1	10.4	8.9
Staff Type								
Staff sexual misconduct	176	228	258	242	3.2	4.2	4.9	4.7
Staff sexual harassment	101	166	188	99	1.8	3.1	3.6	1.9
Subtotal	277	394	446	341	5.1	7.3	8.4	6.6
Inmate Type								
Inmate-on-inmate nonconsensual act	52	48	53	71	1.0	0.9	1.0	1.4
Inmate-on-inmate abusive sexual contacts	10	17	16	25	0.2	0.3	0.3	0.5
Inmate-on-inmate sexual harassment	11	29	36	25	0.2	0.5	0.7	0.5
Subtotal	73	94	105	121	1.3	1.7	2.0	2.3

## Allegations by Security Level

Allegations reported by correctional facilities include reports from inmates, staff, family members, anonymous letters, outside agencies and the DOCCS rape crisis hotline. Allegations in this report are aggregated based upon the Correctional Facility where the alleged incident occurred. Facilities are classified into one of three security levels: maximum, medium, or minimum security. Specialized facility subdivisions may have higher or lower security designations. For the purpose of this report, the security level of the facility is represented by the primary designation.

The rate of allegations of sexual abuse and sexual harassment reported at maximum security facilities decreased between 2015 and 2016 (15.9 per 1,000 inmates and 11.5 per 1,000 inmates, respectively) as exhibited in Figure 2. The rate of allegations reported at medium security facilities remained relatively stable between 2015 and 2016 <sup>1</sup>.



<sup>1</sup> Medium security level facilities may include specialized housing units designated with higher security levels.

Facility security level is represented by the primary designation.



## Section Two

### SUBSTANTIATED ALLEGATIONS

Allegations of sexual abuse or sexual harassment are substantiated after an event is investigated and determined to have occurred based on a preponderance of evidence. This report reflects the number of determinations based upon data collected through April 2, 2018.

In 2016, 9 incidents (1.9%) of the 462 allegations were deemed substantiated. Of the 551 allegations of sexual abuse and sexual harassment reported to DOCCS in 2015, 16 incidents (2.9%) were determined to be substantiated. Three (3) ongoing investigations from 2015 have been substantiated following the publication of the previous Annual Report on Sexual Victimization. In 2014, 21 incidents (4.3%) of the 488 reports received were deemed substantiated.

In each year, the number and rate of unfounded determinations exceeds the number and rate of substantiated determinations. For a full description of resulting determinations (see Section Three).

**TABLE 3**

**Substantiated and Unfounded allegations of sexual victimization state-wide, 2013 - 2016**

	2013	2014	2015	2016
<b>Total Allegations</b>	350	488	551	462
substantiated	12	21	16	9
percent	3.4%	4.3%	2.9%	1.9%
rate per 1,000 inmates	0.22	0.39	0.30	0.17
unfounded	18	78	106	67
percent	5.1%	16.0%	19.2%	14.5%
rate per 1,000 inmates	0.33	1.45	2.01	1.29

The rate of sexual victimization is the ratio of the number of incidents to the average number of inmates under DOCCS custody between January and December of the calendar year. The population of incarcerated individuals includes both inmates and incarcerated parolees.

The rates used in this report represent the number of allegations or substantiated incidents per year per 1,000 inmates and it allows for comparison between facilities with different population levels during the same 12-month period. Although rate information is provided in statistical tables, there are too few substantiated incidents to provide reliable rate comparisons.

## Section Three

### RESULTING DETERMINATIONS

Resulting determinations from completed investigations are classified as Substantiated, Unsubstantiated, or Unfounded as defined by the PREA Standards (28 C.F.R. § 115). Resulting determinations are fully defined in Appendix C (p. 19).

Among completed investigations between 2013 and 2016, a number of resulting determinations concluded that there was sufficient evidence to confirm a report of sexual abuse or sexual harassment. These cases are referred to as substantiated. The number of substantiated cases ranged from 21 out of 488 reports in 2014 (4.3% of reported incidents) to 9 out of 462 reports in 2016 (1.9% of reported incidents).

When a report is substantiated for sexual abuse, sexual harassment or another form of misconduct, criminal prosecution and disciplinary action will be pursued commensurate with the nature and circumstances of the acts committed.

Unfounded determinations are reports submitted that are proved to be false. All inmate allegations of sexual abuse and sexual harassment are taken seriously and investigated thoroughly. The number and rate of false reports increased between 2013 and 2015, but declined in 2016. However, nearly half (46.3%) of the investigations of 2016 allegations were ongoing at the time of data collection (see Table 4). It is also noted that cases with multiple allegations that are substantiated for non-PREA defined forms of misconduct are reflected as unsubstantiated in Table 4.

Of the 462 sexual abuse and sexual harassment allegations reported in 2016, 67 (14.5%) were determined to be *unfounded*. In these cases, the Office of Special Investigations determined that the event did not occur by, for example, the presence of evidence contradictory to the allegation or an inmate’s self-admission to falsifying the allegation.

Among completed investigations between 2013 and 2016, most resulting determinations concluded that evidence was insufficient to determine whether or not the event occurred. These cases are referred to as *unsubstantiated*.

**TABLE 4**  
**Resulting determinations by year, 2013 - 2016**

	2013		2014		2015		2016	
Completed	349	99.7%	437	89.5%	436	79.1%	248	53.7%
Unsubstantiated	319	91.1%	338	69.3%	314	57.0%	172	37.2%
Substantiated	12	3.4%	21	4.3%	16	2.9%	9	1.9%
Unfounded	18	5.1%	78	16.0%	106	19.2%	67	14.5%
Ongoing	1	0.3%	51	10.5%	115	20.9%	214	46.3%
Total	350	100.0%	488	100.0%	551	100.0%	462	100.0%

The number of open cases (classified as “Ongoing”) represent more recent allegations which are more likely to be ongoing.

## Section Four

### REVIEW FOR CORRECTIVE ACTION

Pursuant to PREA Standard § 115.88, DOCCS continues to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. This includes (1) identifying problem areas; (2) taking corrective action on an ongoing basis; and (3) preparation of this annual report, findings and corrective actions for each facility, as well as the agency as a whole (see Appendix B).

To this end, this report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the agency's progress in addressing sexual abuse.

The Department has a long history of implementing practices intended to prevent and respond to instances of sexual abuse and sexual harassment. Following the adoption of the PREA Standards, DOCCS implemented a number of enhancements to further combat sexual abuse and sexual harassment. DOCCS appointed Assistant Deputy Superintendent PREA Compliance Managers who are responsible for PREA compliance matters at clusters of facilities. Assistant Deputy Superintendent PREA Compliance Managers coordinate efforts to comply with the PREA standards at each of their facilities. In addition, a senior security supervisor, typically a Captain, is designated as the PREA Point Person in each facility to work in conjunction with the facility's designated Assistant Deputy Superintendent PREA Compliance Manager in a joint effort to implement the PREA Standards within the facility.

In March 2014, DOCCS implemented an Enhanced Victim Services pilot project. As of the end of 2015, this grant-funded project provided rape crisis hotline and emotional support services to inmates at 27 correctional facilities. Also in mid-2015, DOCCS entered into a partnership with the New York State Coalition Against Sexual Assault (NYSCASA) in an effort to improve the program and expand it statewide. At the end of 2016, formal agreements were in place to provide services at 28 facilities while efforts continued to further expand the program. Today, this partnership has expanded to include the New York State Office of Victim Services and the Office for the Prevention of Domestic Violence. The Enhanced Victim Services program now provides hotline services at 37 facilities and additional providers are being trained for an additional expansion prior to extending the Rape Crisis Hotline statewide.

DOCCS also produced a pair of gender-specific Inmate Education Films leveraging another grant-funded program. These films use a peer education approach to provide valuable

information to new and transferring inmates. These films were implemented in June 2015, and by August 14, 2015, the films were shown to almost all inmates. In a grant-funded partnership with Just Detention International (JDI), DOCCS started work on a project to expand the PREA peer education component into the Transitional Services Phase 1 program which was implemented in July 2016. Printed inmate educational materials were refined to incorporate information reviewed during these comprehensive in person education. During the second and third quarters of 2015, the new “Sexual Abuse Prevention and Response Training” was implemented during monthly training days. This training was provided to a significant number of largely non-uniformed DOCCS employees in anticipation of a statewide roll out in the first quarter of 2016. In addition, in August 2015, DOCCS updated its various facility orientation programs for new and transferring staff. These updates ensured that a PREA Introduction/Refresher training was presented to new hires and transferring employees. This training was tailored to the gender of the inmate population housed at the facility. Supplemental training materials were produced and made available to all staff to assist them in responding to a report of sexual abuse. PREA refresher training was conducted for all DOCCS employees during the first quarter of 2018.

Enhancements were also made to training for security supervisors with an emphasis on improving the facility coordinated response to a report of sexual abuse. Further, in 2016, a refined training on Inmate Sexual Assault Post Exposure Protocol/PREA was delivered to the Department’s medical providers. A quick reference guide was distributed for both security and non-uniformed supervisors to reinforce the Department’s zero tolerance approach to reports of sexual abuse and sexual harassment, and provide readily available information to supervisors to help guide them on a range of issues including incident response, medical and mental health responsibilities, incident assessment, and respectful communication.

The Department has ensured that Office of Special Investigations, Sex Crimes Division investigative staff have access to state-of-the-art training and investigative tools. This training is ongoing and includes training in sexual abuse evidence collection, crime scene photography, evidence technician certification, victim interviewing, and a number of other topics.

In June 2018, the Sexual Abuse Prevention and Education Office hosted a multi-day PREA Workshop in conjunction with the Department’s annual conference with the Enhanced Victim Services providers. This training targeted the designated PREA Point Person from each facility, together with the Assistant Deputy Superintendent PREA Compliance Managers and investigative staff from the Office of Special Investigations, Sex Crimes Division. This training program addressed a range of general PREA compliance matters, prevention strategies and incident response protocols.

DOCCS continues to review cases and each facility tracks recommendations specific to their incident reviews, and implementation of those recommendations. The most common recommendations resulting from incident reviews concern targeted retraining for staff. This includes retraining specific individuals or providing supplemental information on specific topics to a range of staff. Following other reports, facilities have adjusted rounds in identified areas or added mirrors to help eliminate identified blind-spots.

A specific recurring issue that has required retraining and clarification of policy concerns timely referrals for mental health follow-up after a report is received. This issue has been addressed through training and refinement of Office of Special Investigations protocols to verify that a mental health referral has been completed. DOCCS' Assistant Deputy Superintendent PREA Compliance Managers have also been advised of this concern as an additional check and balance to remind responding staff of their duty to make a referral to the Office of Mental Health. Health Services Policy Manual (HSPM) 1.60 "Sexual Assault" was revised in October 2017 to help clarify response protocols to reports of sexual abuse. A further revision to HSPM 1.60 is being developed to address the specificity required in such referrals.

The Department recognizes that video serves both as an effective tool to prevent misconduct by both staff and inmates, and also a source of often definitive evidence of what occurred at a given time and place. The Department continues to pursue the expansion of video monitoring technology to all maximum-security facilities and a number of medium security facilities. Work at Attica Correctional Facility was completed in May 2016 with the installation of nearly 2,000 cameras. Installation of a system is nearly complete at Clinton Correction Facility and is well underway at Great Meadow Correctional Facility. The expansion of coverage of the fixed video surveillance system at Bedford Hills Correctional Facility is beginning after extensive site review to ensure the enhancements will deter and detect sexual abuse and sexual harassment. In addition, DOCCS is continuing to expand its use of Body-Worn Cameras. This includes placing a Body-Worn Camera system into Albion Correction Facility in November 2017, and installation at Taconic Correctional Facility is expected during the fall of 2018. Six additional sites will be identified for Body-Worn Camera systems through a Department of Justice, Bureau of Justice Assistance Body-Worn Camera (BWC) Policy and Implementation Program FY 2017 Competitive Grant. The number of reports of sexual abuse and sexual harassments is a significant factor in the identification of facilities for the expansion of the Body-Worn Camera program.

The Department's Office of Special Investigations, Sex Crimes Division, is responsible for investigations of allegations of staff-on-inmate sexual abuse, sexual harassment, retaliation concerning an incident of sexual abuse, or inappropriate relationships. Allegations of sexual harassment or sexual threats are reviewed by the Office of Special Investigations for a

determination as to the appropriate investigative steps to be taken, which may include directing specific steps to be taken in a facility investigation. The Office of Special Investigations is continuously improving its protocols and staffing to improve the timely resolution of investigations, while ensuring that neither thoroughness nor integrity of the process are compromised.

DOCCS Sexual Abuse Prevention & Education Office, under the Associate Commissioner for PREA Compliance (the agency-wide PREA Coordinator), continues to develop, implement, and oversee agency efforts to comply with the PREA standards in all of the agency's facilities. This Office continues to work collaboratively with the agency's Office of Special Investigations and Research staff to improve DOCCS' understanding of the dynamics of sexual abuse within correctional facilities to better target its prevention strategies.

In October 2015, DOCCS began to conduct PREA Audits at its correctional facilities. The PREA Audits provide an independent evaluation of the policies and procedures that DOCCS implemented and an opportunity to identify areas for further improvement at the audited facilities and system-wide. Twenty-three PREA Audits were scheduled for completion during 2017 and ten during the first part of 2018. As of June 23, 2018, every DOCCS operated facility has successfully completed its first PREA Audit. The final reports from the completed PREA Audits are published at [http://www.doccs.ny.gov/PREA/PREA\\_Final\\_Audit\\_Reports.html](http://www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html). The PREA audit process has proven to present an excellent opportunity to reinforce policy and training, and to verify compliance with the PREA Standards.

## CONCLUSION

Comparison of data from 2013 to 2016 shows a peak in reports of sexual abuse and sexual harassment in 2015, leading into a decline in reports for 2016. This decline suggests that the Department's strategies are effective. Accordingly, DOCCS will continue its current efforts to educate staff and inmates, conduct thorough and reliable investigations into reports of sexual victimization, and pursue prosecution and discipline commensurate with the nature and circumstances of the misconduct. These efforts include specialized trainings for persons in key roles including Assistant Deputy Superintendent PREA Compliance Managers, PREA Point Persons, Medical Staff and Office of Special Investigations (OSI) Sex Crimes Investigators. The Department will also continue on the path of expanding the use of technology to dissuade and detect misconduct.

Such efforts have shifted the culture of the Department and continue to reinforce the message that the Department of Corrections and Community Supervision has zero tolerance for sexual abuse and sexual harassment.



**APPENDIX A**

**Allegations of sexual victimization - facility by resulting determination, rate per 1,000 inmates**

**2013 - 2016**

Facility	2013						2014						2015						2016					
	subst.		unsubst.		unfound		subst.		unsubst.		unfound		subst.		unsubst.		unfound		subst.		unsubst.		unfound	
	total	No. rate	No. rate	No. rate	total	No. rate	No. rate	No. rate	No. rate	total	No. rate	No. rate	No. rate	No. rate	total	No. rate	No. rate	No. rate	total	No. rate	No. rate	No. rate	No. rate	
Adirondack	1	0.0	1	2.5	0.0	1	0.0	1	2.5	0.0	4	0.0	4	10.6	0.0	0	0.0	0.0	0.0	0.0	0.0			
a Albion	35	2 1.9	31	30.0	2 1.9	35	2 1.8	27	24.5	6 5.4	24	1 0.9	16	14.5	6 5.5	37	5 4.6	21	19.1	3 2.7				
Altona	1	0.0	1	2.1	0.0	1	0.0	0.0	1	2.1	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0.0	0.0				
Attica	20	0.0	19	9.0	1 0.5	18	1 0.5	16	7.6	2 1.0	24	0.0	19	9.2	5 2.4	21	0.0	11	5.5	8 4.0				
Auburn	18	0.0	17	10.3	1 0.6	15	0.0	12	7.2	3 1.8	18	0.0	10	6.1	8 4.9	19	0.0	14	9.0	1 0.6				
Bare Hill	3	0.0	3	1.8	0.0	1	0.0	1	0.6	0.0	3	0.0	2	1.2	1 0.6	0	0.0	0.0	0.0	0.0				
a Bayview	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0.0	0.0				
a Beacon	1	1 14.3	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0.0	0.0				
a Bedford Hills	22	3 3.7	18	22.3	1 1.2	40	3 3.9	31	40.3	2 2.6	40	3 3.9	20	25.8	5 6.5	34	1 1.3	6	0.0	7 9.2				
Butler	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0.0					
Cape Vincent	4	0.0	4	4.6	0.0	2	0.0	2	2.3	0.0	2	0.0	2	2.3	0.0	1	0.0	0.0	0.0					
c Cayuga	0	0.0	0.0	0.0	0.0	3	0.0	2	2.0	1 1.0	1	0.0	1	1.0	0.0	1	1 1.0	0.0	0.0					
Chateaugay	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0						
Clinton	12	0.0	12	4.3	0.0	17	1 0.4	14	5.2	2 0.7	14	1 0.4	8	3.0	4 1.5	20	0.0	8	3.0	3 1.1				
c Collins	7	0.0	7	6.7	0.0	8	0.0	8	7.6	0.0	5	0.0	4	3.8	0.0	7	0.0	2	1.9	1 1.0				
Coxsackie	6	0.0	6	6.4	0.0	2	0.0	2	2.2	0.0	2	0.0	1	1.1	0.0	10	0.0	2	2.2	1 1.1				
Downstate	3	1 0.8	2	1.7	0.0	14	0.0	7	5.9	2 1.7	20	0.0	11	9.5	4 3.5	7	0.0	0.0	0.0					
Eastern	3	0.0	3	3.2	0.0	6	0.0	5	5.5	0.0	11	0.0	10	11.0	0.0	4	0.0	0.0	0.0					
b Edgecombe	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0.0	0.0	1	0.0	0.0	0.0	0.0					
Elmira	17	1 0.6	15	8.6	1 0.6	10	0.0	7	4.2	3 1.8	13	1 0.6	9	5.6	2 1.3	9	0.0	2	1.3	2 1.3				
c Fishkill	4	0.0	3	1.8	1 0.6	18	0.0	10	6.2	4 2.5	15	0.0	3	1.8	5 3.1	31	1 0.6	8	4.9	4 2.5				
Five Points	18	0.0	18	13.0	0.0	38	1 0.7	23	17.0	14 10.4	16	0.0	11	8.6	5 3.9	11	0.0	6	4.5	2 1.5				
Franklin	8	0.0	8	4.8	0.0	9	3 1.8	4	2.4	2 1.2	23	0.0	19	12.2	1 0.6	12	0.0	5	3.5	3 2.1				

APPENDIX A (continued)

Allegations of sexual victimization - facility by resulting determination, rate per 1,000 inmates

2013 - 2016

Facility	2013						2014						2015						2016					
	subst.		unsubst.		unfound	total	subst.		unsubst.		unfound	total	subst.		unsubst.		unfound	subst.		unsubst.		unfound	total	
	No.	rate	No.	rate	No.		rate	No.	rate	No.	rate		No.	rate	No.	rate	No.	rate	No.	rate	No.	rate		No.
c Gouverneur	2	0.0	2	2.0	0.0	5	0.0	3	2.9	2	1.9	2	0.0	1	1.0	1	1.0	1	0.0	0.0	1	1.0		
Gowanda	5	1 0.7	4	2.7	0.0	9	1 0.7	8	5.2	0.0	5	0.0	4	2.6	1	0.6	10	0.0	7	4.6	0.0			
Great Meadow	16	1 0.6	12	7.5	3	1.9	28	0.0	15	9.8	3	2.0	31	0.0	7	4.6	1	0.7	25	0.0	8	5.4	3	2.0
Green Haven	12	0.0	10	5.1	2	1.0	20	0.0	14	7.2	2	1.0	37	2 1.2	10	5.9	6	3.5	24	0.0	2	1.0	3	1.5
c Greene	0	0.0	0.0	0.0	0.0	5	1 0.6	2	1.2	1	0.6	4	0.0	0.0	0.0	4	0.0	3	1.8	0.0				
Groveland	5	0.0	5	4.6	0.0	4	0.0	3	2.8	0.0	2	0.0	1	0.9	0.0	5	0.0	1	1.0	2	1.9			
Hale Creek	0	0.0	0.0	0.0	0.0	2	0.0	1	3.5	1	3.5	2	0.0	1	2.8	1	2.8	1	0.0	0.0	0.0			
b Hudson	0	0.0	0.0	0.0	0.0	1	0.0	1	2.6	0.0	2	0.0	1	2.7	0.0	2	0.0	1	5.2	0.0				
b, c Lakeview	4	0.0	4	4.5	0.0	3	0.0	2	2.3	1	1.1	6	0.0	5	6.0	1	1.2	4	0.0	2	2.6	1	1.3	
Lincoln	0	0.0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	1	0.0	1	7.3	0.0						
Livingston	1	0.0	1	1.2	0.0	2	0.0	1	1.2	1	1.2	6	0.0	4	4.7	2	2.4	2	0.0	2	2.4	0.0		
c Marcy	9	0.0	8	6.8	1	0.8	16	1 0.9	10	8.6	5	4.3	17	2 1.8	7	6.2	8	7.0	17	0.0	3	2.6	3	2.6
c Mid-State	11	0.0	11	7.1	0.0	9	0.0	5	3.2	4	2.5	16	0.0	9	5.8	7	4.5	22	0.0	5	3.2	4	2.6	
c Mohawk	3	0.0	3	2.1	0.0	7	0.0	7	5.0	0.0	6	0.0	5	3.6	1	0.7	10	0.0	2	1.4	3	2.1		
Monterey Shock	0	0.0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0	0.0	0.0	0.0			
Moriah Shock	0	0.0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0	0.0	0.0	0.0			
Mt. McGregor	1	0.0	1	2.6	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0	0.0	0	0.0	0.0	0.0			
Ogdensburg	0	0.0	0.0	0.0	0.0	2	1 2.5	1	2.5	0.0	0	0.0	0.0	0.0	1	0.0	1	2.4	0.0					
c Orleans	2	0.0	2	2.2	0.0	2	0.0	1	1.0	0.0	5	0.0	2	2.1	1	1.0	1	0.0	0.0	0.0	0.0			
Other	1	0.0	1	0.0	0.0	0	0.0	0.0	0.0	0	0.0	0.0	0.0	2	0.0	0.0	0.0	0.0	0.0	0.0				
Otisville	3	0.0	3	5.2	0.0	4	0.0	3	5.2	0.0	2	0.0	0.0	0.0	4	0.0	3	5.2	0.0					
Outside Hospital	0	0.0	0.0	0.0	0.0	1	0.0	1	0.0	0.0	0	0.0	0.0	0.0	2	0.0	0.0	0.0	0.0					
Queensboro	0	0.0	0.0	0.0	0.0	1	0.0	1	2.8	0.0	1	0.0	1	3.4	0.0	1	0.0	1	3.8	0.0				

**APPENDIX A (continued)**

**Allegations of sexual victimization - facility by resulting determination, rate per 1,000 inmates**

**2013 - 2016**

Facility	2013						2014						2015						2016							
	subst.		unsubst.		unfound		subst.		unsubst.		unfound		subst.		unsubst.		unfound		subst.		unsubst.		unfound			
	total	No.	rate	No.	rate	No.	rate	total	No.	rate	No.	rate	No.	rate	No.	rate	total	No.	rate	No.	rate	No.	rate			
Riverview	0		0.0	0.0		0.0	1	0.0	1	1.2	0.0		2	0.0	2	2.4	0.0	1	0.0	0.0		1	1.2			
Rochester	0		0.0	0.0		0.0	0	0.0	0.0		0.0		0	0.0	0.0		0	0.0	0.0		0	0.0	0.0			
Shawangunk	5		0.0	5	9.9	0.0	9	0.0	6	12.0	0.0		10	0.0	6	11.9	2	4.0	4	0.0	2	4.0	0.0			
Sing Sing	6		0.0	6	3.9	0.0	11	0.0	9	5.6	0.0		25	1	0.6	18	11.2	3	1.9	11	0.0	3	1.9	3	1.9	
Southport	20		0.0	19	25.3	1	1.3	7	1	1.5	4	5.9	1	1.5	14	0.0	9	13.3	5	7.4	7	0.0	5	8.2	1	1.6
Sullivan	11	1	2.1	9	19.3	0.0	17	1	2.1	11	23.1	2	4.2	23	0.0	14	28.3	3	6.1	10	0.0	7	14.7	3	6.3	
<sup>a</sup> Taconic	7	1	2.7	5	13.3	1	2.7	11	1	2.8	4	11.3	1	2.8	9	1	2.8	5	14.1	0.0	3	0.0	1	2.9	1	2.9
Ulster	4		0.0	2	2.5	2	2.5	2	0.0	2	2.5	0.0		6	0.0	2	2.8	0.0	4	0.0	3	3.9	0.0			
Upstate	13		0.0	13	11.5	0.0	24	1	0.9	16	14.6	7	6.4	30	0.0	18	15.8	10	8.8	17	0.0	5	4.4	0.0		
Walkill	0		0.0	0.0		0.0	5	0.0	3	5.2	0.0		2	1	1.8	1	1.8	0.0	2	0.0	2	3.8	0.0			
Washington	1		0.0	1	1.3	0.0	6	1	1.2	5	6.1	0.0		8	0.0	1	1.2	0.0	6	0.0	2	2.4	1	1.2		
Watertown	2		0.0	1	1.8	1	1.8	4	0.0	3	5.6	1	1.9	2	0.0	0.0	2	3.8	1	1	1.9	0.0	0.0			
Wende	13		0.0	13	14.9	0.0	16	0.0	14	16.0	0.0		17	1	1.2	14	16.7	2	2.4	14	0.0	6	7.1	1	1.2	
<sup>b</sup> Willard	2		0.0	2	2.9	0.0	3	1	1.5	0.0	2	2.9	3	0.0	3	4.2	0.0	5	0.0	1	1.3	0.0				
Woodbourne	4		0.0	4	4.9	0.0	10	0.0	7	8.5	2	2.4	11	1	1.2	7	8.7	1	1.2	9	0.0	7	8.8	0.0		
Wyoming	4		0.0	4	2.4	0.0	3	0.0	2	1.2	0.0		10	1	0.6	6	3.6	2	1.2	4	0.0	1	0.6	1	0.6	

<sup>a</sup> Female Correctional Facility.

<sup>b</sup> Includes one or more female housing units.

<sup>c</sup> Medium security population includes specialized housing units designated with higher security levels.

Note: Rate of victimization equals the No. of substantiated or unfounded incidents divided by the average population multiplied by 1,000. See appendix C for full description.

Butler, Chateaugay, Monterey Shock and Mount McGregor Correctional Facilities closed in October 2014. Bayview and Beacon Correctional Facilities closed on September 5, 2013.

## APPENDIX B

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### Title 28 - Judicial Administration

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Volume: 2

Date: 2012-07-01

Original Date: 2012-07-01

Title: Subpart A - Standards for Adult Prisons and Jails

Context: Title 28 - Judicial Administration.

CHAPTER I - DEPARTMENT OF JUSTICE (CONTINUED).

PART 115 - PRISON RAPE ELIMINATION ACT NATIONAL STANDARDS.

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### Subpart A—Standards for Adult Prisons and Jails

#### § 115.87 Data collection.

- (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- (b) The agency shall aggregate the incident-based sexual abuse data at least annually.
- (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- (d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- (e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
- (f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

#### § 115.88 Data review for corrective action.

- (a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
  - (1) Identifying problem areas;
  - (2) Taking corrective action on an ongoing basis; and
  - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.
- (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

## APPENDIX C

### DEFINITIONS OF SEXUAL VICTIMIZATION

The New York State Department of Corrections and Community Supervision (DOCCS) utilizes uniform definitions as provided by 28 C.F.R. §115.6 in the National Standards to Prevent, Detect, and Respond to Prison Rape (under the Prison Rape Elimination Act of 2003).

These definitions are used to categorize allegations of sexual abuse within New York State correctional facilities and to separate allegations by perpetrator type (staff or inmate) and type of abuse.

Similar to the Survey on Sexual Victimization (SSV), the following categories of sexual abuse have been disaggregated into five categories as indicated below.

**Inmate Nonconsensual Act (I<sub>1</sub>)** - sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; and

- Contact between the penis and the vulva or the penis and the anus including penetration, however slight; or
- Contact between the mouth and the penis, vulva or anus; or
- Penetration of the anal or genital opening of another person, however slight by a hand, finger, object, or other instrument.

**Inmate Abusive Act (I<sub>2</sub>)** - sexual contact with any person without his or her consent, or of a person who is unable to consent or refuse; and

- Intentional touching either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

**Inmate Sexual Harassment (I<sub>3</sub>)** – Repeated and unwanted sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another.

**Staff Sexual Misconduct (S<sub>1</sub>)** – any act or behavior of a sexual nature directed toward an inmate by an employee, volunteer, contractor or official visitor or other agency representative. Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual and nonconsensual acts include:

- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse or gratify sexual desire; or
- Completed, attempted, threatened, or requested sexual acts; or
- Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.

**Staff Sexual Harassment (S<sub>2</sub>)** – Repeated verbal statements, comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative, including:

- Demeaning references to gender; or sexually suggestive or derogatory comments about body or clothing;
- Repeated profane or obscene language or gestures.

## FEDERAL CODE OF REGULATIONS

Resulting determinations from completed investigations are classified as outlined verbatim in the Code of Federal Regulations Title 28, Chapter 1, subpart A, section 115.5, *General Definitions* (28 C.F.R. § 115.5) as Substantiated, Unsubstantiated, or Unfounded. This standard states that agencies shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**Substantiated** – An allegation was investigated and determined to have occurred based on a preponderance of the evidence.

**Unsubstantiated** – An allegation was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

**Unfounded** – An allegation was investigated and determined not to have occurred.

DOCCS also recognizes that at the time of reporting, a final resolution may not yet have been determined. Under these circumstances, the matter will be identified as “Investigation Ongoing” indicating that evidence is still being gathered, processed or evaluated, and a final determination has not yet been made.

## APPENDIX D

### RATE CALCULATION METHOD

Annualized rates are calculated as the number of incidents of sexual abuse per 1,000 inmate population per year. Inmate population includes inmates, incarcerated parolees and those enrolled in parole diversion programs housed within New York State Correctional Facilities. For example, the 9 substantiated incidents which occurred in 2016 are divided by the average inmate population for 2016 (N=52,017), and multiplied by 1,000 to yield 0.17 sexual abuse incidents per thousand inmates. The same method is used to calculate the rate of sexual abuse at particular correctional facilities where the population base is the average inmate population at the facility (see Appendix A).



**Anthony J. Annucci**  
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**Sexual Abuse Prevention & Education Office**

**December 2018**